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In re Application of :
John D. Newbold et al. :
Application No. 09/828,621 :
Filed: April 6, 2001 :
Attorney Docket No. 1047 :

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition, filed December 19, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

In response to an amendment filed December 15, 2003, a Notice of Non-Compliant amendment was mailed February 26, 2004. Applicant was advised that the amendment filed was non-compliant under 37 CFR 1.121. The time for response was one month from the mailing of the Notice, thus a response was due not later than March 26, 2004. A response in the form of an amendment was filed April 26, 2004. A Notice of Abandonment was mailed as the response filed April 26, 2004 was untimely. The application became abandoned March 29, 2004. Accordingly, a Notice of Abandonment was mailed November 2, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

Petitioner requests that the amendment filed April 26, 2004 be considered as the required response with the instant petition.

This matter is being referred to Technology Center 3752 for processing of the amendment filed April 26, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
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Office of Petitions